

Introduction

The Kentucky Department of Education submits comments in the above referenced proceeding on behalf of all Kentucky public schools, as well as the Department of Education. Kentucky is a strong supporter of the E-Rate program and recognizes huge contribution from the E-Rate program in meeting initiatives of the Kentucky Education Technology System. Continuing and enhanced services of the E-Rate program will greatly aid our districts in continuing to meet the goals of the Kentucky Master Plan for Education Technology, accessible at (http://www.kde.state.ky.us/oet/sits/planning/mpupdate2001/2001_2006_final/default_final.asp), and the goals of the 2002 No Child Left Behind Act. We strongly believe that adoption of some version of our suggestions would greatly enhance the opportunity for all eligible schools and libraries in all states to benefit equitably from the program for future years.

Overview of Kentucky's response of goals of the NPRM

We very much support the goals to streamline the program, provide equitable funding, and to provide protection against waste, fraud, and abuse. We feel that it is crucial for a baseline of technology components and level of service be established for each type of eligible entity in order to successfully address each of these goals. It is our recommendation that this baseline include a replacement cycle with an identified funding cap for each component. Each component could receive funding a maximum of once during the set replacement cycle. For example, if a file server is determined to have an average life expectancy of 3 years, then the replacement cycle would be set at 3 years. A file server for that entity would only be eligible for funding once during 3 years. After the three years are complete, then the applicant can file for a replacement server. This baseline must also identify a maximum performance or service level which is eligible to receive discounts. For example, a high school with an average daily attendance between 800 and 1,200 may be eligible to receive funding on a T1, or equivalent, data circuit. The cost of a data circuit above that level would be at the expense of the local entity. Ideally, an average cost per eligible item would be established per region or state to regulate the maximum funding available for that item during the replacement cycle.

For states which demonstrate they currently have or have the ability to establish a baseline, an equitable funding formula, and the capability to proactively monitor and ensure protection against fraud, we recommend the program should allow state distribution through block grants. The state would then be accountable to enforce the program rules, review applications, and distribute funds appropriately. An Unmet Need formula would have to be established to identify the maximum funding amount for each eligible state. An example of Kentucky's Unmet Need formula for the Kentucky Education Technology System can be seen within the Kentucky Master Plan for Education Technology referenced above.

Answers to Request for Comment

Eligible Services List

The FCC needs to establish a baseline level for core services/products and restrict the Eligible Services List to include only the baseline level of services/products. This would also require that the lifespan of the component be determined and that it be funded only once during that lifespan and that a service be funded at a level not to exceed the established maximum funding level for that service.

By continuing to broaden the scope of the Eligible Services List, the program administrator is incurring unnecessary review and scrutiny of applications and potentially losing baseline establishment. Narrowing the scope of eligible services to only a specific set of core components/standards should assist in streamlining the process overall.

Discounts for Internet Access When Bundled with Content

Applications for bundled Internet access should not replace current or existing services. This solution should also only include items identified as baseline components. Exceptions to this would only apply to opportunities in securing this service in a more cost effective and technical superior manner-regardless of discount.

Review of Requests Including Eligible and Non-Eligible Services

This can be achieved with two changes:

1. Restrict the eligible services to include only those baseline services/components with maximum funding levels.
2. Allow only the restricted list of components with an identified maximum funding level to be included on any application.

Compliance with the Americans with Disabilities Act
States should adhere to all regulations regarding ADA.

Choice of Payment Methods

Due to the continuing struggles between applicants and service providers in regard to timely distribution of reimbursements, it is our recommendation that applicants be allowed to choose between the traditional methods or direct reimbursement from SLD. Additionally better checks and balances need to be established to prevent service providers from seeking reimbursement on services not yet delivered. Applicants that utilize the BEAR process are at the mercy of the service provider to reimburse the discount portion to them. This process takes months, not 10 days as the rules now state.

Equipment Transferability

We agree with the potential establishment of designated periods of time governing the transfer of discounted internal connections hardware. We also agree on the approach to not duplicate the funding approval of a specific core component more than once over a designated period of time.

Prohibitions on Participation

We agree that action needs to be taken against entities that fail to comply with program rules. Our recommendation is that the entity be suspended from participating in the program indefinitely and that financial penalties also be enforced. We would support a reinstatement of those suspended entities only after a reasonable timeframe and demonstration of corrective action taken to address the original program infraction.

Unused Funds

We recommend that any unused funds from a program year be rolled over into the next program year for distribution, without reducing collections from the contributors for the new year. By establishing a baseline of components and having clear guidelines, this would reduce the number of appeals for which money is held back, thereby reducing the amount of money requiring rollover into the next year. Another reason for unused funds is due to late funding commitment decision letters to the applicants. The SLD needs to release the funding commitment decision letters on a more timely basis.

Appeals

We support increasing the time limit for filing appeals to 60 days. This will give applicants time to research the reason for the denial, ultimately helping to determine if an appeal is actually necessary. We support the post-mark date as the date the 60 day clock starts. Meritorious appeals should be funded immediately. The SLD should make a decision on the appeals within 60 days of receiving the appeal from the applicant.

Conclusion

The Kentucky Department of Education appreciates the opportunity to comment on the proposed E-Rate rules. Kentucky public schools have been a participant in the program since it's inception and have tremendously benefited from it. We urge the Commission to consider each of these recommendations.

We would welcome the opportunity to work directly with the SLD and Commission to evaluate the approach used in Kentucky to provide an equitable and efficient state technology funding program. We believe that many of the practices we follow and lessons learned would provide very valuable guidance on how best to structure the E-Rate program moving forward.

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